

**GOVERNMENT INSURANCE AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

This bill makes changes to the Administrative Services Code, Independent Entities Code, and Independent State Entities relating to risk management.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ authorizes the state risk manager to create one or more captive insurance companies;
- ▶ requires the risk manager to coordinate and cooperate with any covered entity having responsibility for risk control and safety of school districts and charter schools;
- ▶ authorizes school districts, charter schools, the Utah Communications Authority, and the Utah State Fair Corporation to participate in any captive insurance company created by the risk manager; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**31A-12-101**, as last amended by Laws of Utah 1993, Chapter 212

**51-7-2**, as last amended by Laws of Utah 2018, Chapters 207 and 404

**63A-4-102**, as last amended by Laws of Utah 2009, Chapter 183

**63A-4-103**, as last amended by Laws of Utah 2020, Chapter 365

**63A-4-201**, as last amended by Laws of Utah 2011, Chapter 303

**63A-4-202**, as renumbered and amended by Laws of Utah 1993, Chapter 212

- 33           **63A-4-204**, as last amended by Laws of Utah 2018, Chapter 415  
34           **63A-4-204.5**, as last amended by Laws of Utah 2018, Chapter 415  
35           **63A-4-205.5**, as last amended by Laws of Utah 2015, Chapter 411  
36           **63E-1-304**, as enacted by Laws of Utah 2013, Chapter 220  
37           **63G-7-605**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 9  
38           **63G-10-501**, as enacted by Laws of Utah 2015, Chapter 355  
39           **63H-6-103**, as last amended by Laws of Utah 2020, Chapter 152

40   ENACTS:

- 41           **63A-4-101.1**, Utah Code Annotated 1953  
42           **63A-4-208**, Utah Code Annotated 1953

43   RENUMBERS AND AMENDS:

- 44           **63A-4-101.5**, (Renumbered from 63A-4-101, as last amended by Laws of Utah 2006,  
45           Chapter 275)

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47   *Be it enacted by the Legislature of the state of Utah:*

48           Section 1. Section **31A-12-101** is amended to read:

49           **31A-12-101. Definitions.**

50           As used in this chapter:

51           (1) "Risk Management Fund" means the fund created under Section 63A-4-201.

52           (2) "Risk manager" means the person appointed under Section [~~63A-4-101~~]

53   63A-4-101.5.

54           Section 2. Section **51-7-2** is amended to read:

55           **51-7-2. Exemptions from chapter.**

56           The following funds are exempt from this chapter:

- 57           (1) funds invested in accordance with the participating employees' designation or  
58   direction pursuant to a public employees' deferred compensation plan established and operated  
59   in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;  
60           (2) funds of the Utah State Retirement Board;  
61           (3) funds of the Utah Housing Corporation;  
62           (4) endowment funds of higher education institutions;  
63           (5) permanent and other land grant trust funds established pursuant to the Utah

Enabling Act and the Utah Constitution;

(6) the State Post-Retirement Benefits Trust Fund;

(7) the funds of the Utah Educational Savings Plan;

(8) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;

(9) the funds in the Navajo Trust Fund;

(10) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

(11) the funds in the Employers' Reinsurance Fund;

(12) the funds in the Uninsured Employers' Fund; ~~and~~

(13) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section 62A-5-206.7~~[-]~~; and

(14) the funds in the Risk Management Fund created in Section 63A-4-201.

Section 3. Section **63A-4-101.1** is enacted to read:

**63A-4-101.1. Definitions.**

As used in this chapter:

(1) "Captive insurance company" means the same as that term is defined in Section 31A-37-102.

(2) "Covered entity" means a participating entity of:

(a) the Risk Management Fund; or

(b) any captive insurance company created by the risk manager.

Section 4. Section **63A-4-101.5**, which is renumbered from Section 63A-4-101 is renumbered and amended to read:

~~**[63A-4-101].**~~ **63A-4-101.5. Risk manager -- Appointment -- Duties.**

(1) The executive director shall appoint a risk manager, who shall be qualified by education and experience in the management of general property and casualty insurance.

(2) The risk manager shall:

(a) acquire and administer the following purchased by the state and any captive insurance company created by the risk manager:

~~[(i) all property, casualty insurance; and]~~

(i) all property and casualty insurance;

(ii) reinsurance of property and casualty insurance; and

95 ~~[(ii)]~~ (iii) subject to Section 34A-2-203, workers' compensation insurance;

96 (b) recommend that the executive director make rules:

97 (i) prescribing reasonable and objective underwriting and risk control standards for

98 ~~[state agencies];~~

99 (A) all covered entities of the Risk Management Fund; and

100 (B) any captive insurance company created by the risk manager;

101 (ii) prescribing the risks to be covered by the Risk Management Fund and the extent to

102 which these risks will be covered;

103 (iii) prescribing the properties, risks, deductibles, and amount limits eligible for

104 payment out of the ~~[fund]~~ Risk Management Fund;

105 (iv) prescribing procedures for making claims and proof of loss; and

106 (v) establishing procedures for the resolution of disputes relating to coverage or claims,

107 which may include binding arbitration;

108 (c) implement a risk management and loss prevention program for ~~[state agencies]~~

109 covered entities for the purpose of reducing risks, accidents, and losses to assist ~~[state officers~~

110 ~~and employees]~~ covered entities in fulfilling their responsibilities for risk control and safety;

111 (d) coordinate and cooperate with any ~~[state agency]~~ covered entity having

112 responsibility to manage and protect state properties, including:

113 (i) the state fire marshal;

114 (ii) the director of the Division of Facilities Construction and Management;

115 (iii) the Department of Public Safety; ~~[and]~~

116 (iv) institutions of higher education;

117 (v) school districts; and

118 (vi) charter schools;

119 (e) maintain records necessary to fulfill the requirements of this section;

120 (f) manage the ~~[fund]~~ Risk Management Fund and any captive insurance company

121 created by the risk manager in accordance with economically and actuarially sound principles

122 to produce adequate reserves for the payment of contingencies, including unpaid and

123 unreported claims, and may purchase any insurance or reinsurance considered necessary to

124 accomplish this objective; and

125 (g) inform the ~~[agency's]~~ covered entity's governing body and the governor when any

126 [agency] covered entity fails or refuses to comply with reasonable risk control  
127 recommendations made by the risk manager.

128 (3) Before the effective date of any rule, the risk manager shall provide a copy of the  
129 rule to each [agency] covered entity affected by it.

130 Section 5. Section **63A-4-102** is amended to read:

131 **63A-4-102. Risk manager -- Powers.**

132 (1) The risk manager may:

133 (a) enter into contracts;

134 (b) form one or more captive insurance companies authorized under Title 31A, Chapter  
135 37, Captive Insurance Companies Act;

136 ~~[(b)]~~ (c) purchase insurance or reinsurance;

137 ~~[(c)]~~ (d) adjust, settle, and pay claims;

138 ~~[(d)]~~ (e) pay expenses and costs;

139 ~~[(e)]~~ (f) study the risks of all [state agencies] covered entities and properties;

140 ~~[(f)]~~ (g) issue certificates of coverage [to state agencies for] or insurance for covered  
141 entities with respect to any risks covered by the Risk Management Fund or any captive  
142 insurance company created by the risk manager;

143 ~~[(g)]~~ (h) make recommendations about risk management and risk reduction strategies  
144 to [state agencies] covered entities;

145 ~~[(h)]~~ (i) in consultation with the attorney general, prescribe insurance, indemnification,  
146 and liability provisions to be included in all state contracts;

147 ~~[(i)]~~ (j) review [agency] covered entity building construction, major remodeling plans,  
148 agency program plans, and make recommendations to the agency about needed changes to  
149 address risk considerations;

150 ~~[(j)]~~ (k) attend agency planning and management meetings when necessary;

151 ~~[(k)]~~ (l) review any proposed legislation and communicate with legislators and  
152 legislative committees about the liability or risk management issues connected with any  
153 legislation; and

154 ~~[(l)]~~ (m) solicit any needed information about agency plans, agency programs, or  
155 agency risks necessary to perform the risk manager's responsibilities under this part.

156 (2) (a) The risk manager may expend money from the Risk Management Fund to

procure and provide coverage to all [~~state agencies~~] covered entities and their indemnified employees, except those [~~agencies~~] entities or employees specifically exempted by statute.

(b) The risk manager shall apportion the costs of that coverage according to the requirements of this part.

(3) Before charging a rate, fee, or other amount to an executive branch agency, or to a subscriber of services other than an executive branch agency, the director shall:

(a) submit the proposed rates, fees, or other amount and cost analysis to the Rate Committee established in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410.

(4) The director shall conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available.

Section 6. Section **63A-4-103** is amended to read:

**63A-4-103. Risk management -- Duties of covered entities.**

(1) (a) Unless [~~specifically~~] expressly authorized by statute [~~to do so, a state agency~~], a covered entity may not:

(i) purchase insurance or self-fund any risk unless authorized by the risk manager; or

(ii) procure or provide liability insurance for the state.

(b) (i) Notwithstanding the provisions of Subsection (1)(a), the Utah Board of Higher Education may authorize higher education institutions to purchase insurance for, or self-fund, risks associated with their programs and activities that are not covered through the risk manager.

(ii) The Utah Board of Higher Education shall provide copies of those purchased policies to the risk manager.

(iii) The Utah Board of Higher Education shall ensure that the state is named as additional insured on any of those policies.

(2) Each [~~state agency~~] covered entity shall:

(a) comply with reasonable risk related recommendations made by the risk manager;

(b) participate in risk management training activities conducted or sponsored by the risk manager;

(c) include the insurance, indemnification, and liability provisions prescribed by the risk manager in all state contracts, together with a statement certifying to the other party to the contract that the insurance and liability provisions in the contract are those prescribed by the risk manager;

(d) ~~[at each principal design stage,]~~ upon request of the risk manager, provide written notice to the risk manager that construction and major remodeling plans relating to ~~[agency]~~ covered entity buildings and facilities to be covered by the ~~[fund]~~ Risk Management Fund are available for review at each principal design stage, for risk control purposes, and make them available to the risk manager for ~~[his]~~ review and to provide recommendations; and

(e) cooperate fully with requests from the risk manager for ~~[agency]~~ covered entity planning, program, or risk related information, and allow the risk manager to attend ~~[agency]~~ covered entity planning and management meetings.

(3) Failure to include in the contract the provisions required by Subsection (2)(c) does not make the contract unenforceable by the state.

Section 7. Section **63A-4-201** is amended to read:

**63A-4-201. Risk Management Fund created -- Administration -- Use.**

(1) (a) There is created the Risk Management Fund, which shall be administered by the risk manager.

(b) The fund shall cover property, liability, fidelity, and other risks as determined by the risk manager in consultation with the executive director.

(2) The risk manager may only use the ~~[fund]~~ Risk Management Fund to pay:

(a) insurance or reinsurance premiums;

(b) costs of administering the ~~[fund]~~ Risk Management Fund and any captive insurance companies created by the risk manager;

(c) loss adjustment expenses;

(d) risk control and related educational and training expenses; and

(e) loss costs which at the time of loss were eligible for payment under rules previously issued by the executive director under the authority of Section ~~[63A-4-101]~~ 63A-4-101.5.

(3) In addition to any money appropriated to the ~~[fund]~~ Risk Management Fund by the Legislature, the risk manager shall deposit with the state treasurer for credit to the ~~[fund]~~ Risk Management Fund:

- 219 (a) any insured loss or loss expenses paid by insurance or reinsurance companies;  
220 (b) the gross amount of all premiums and surcharges received under Section  
221 63A-4-202;  
222 (c) the net refunds from cancelled insurance policies necessary to self-insure previously  
223 insured risks, with the balance of the proceeds to be refunded to the previously insured  
224 [agencies] entities;  
225 (d) all refunds, returns, or dividends from insurance carriers not specifically covered in  
226 Subsections (3)(a), (b), and (c);  
227 (e) savings from amounts otherwise appropriated for participation in the fund; and  
228 (f) all net proceeds from sale of salvage and subrogation recoveries from adverse  
229 parties related to losses paid out of the fund.

230 ~~[(4)(a) Pending disbursement, the risk manager shall provide surplus money in the~~  
231 ~~fund to the state treasurer for investment as provided in Title 51, Chapter 7, State Money~~  
232 ~~Management Act.]~~

233 ~~[(b) The state treasurer shall deposit all interest earned on invested fund money into the~~  
234 ~~fund.]~~

235 (4) The state treasurer shall invest the Risk Management Fund in accordance with  
236 Section 63A-4-208 and deposit all interest or other income earned from investments into the  
237 Risk Management Fund.

238 Section 8. Section **63A-4-202** is amended to read:

239 **63A-4-202. Determination of insurance premiums -- Information furnished by**  
240 **covered entities -- Notice to covered entities.**

241 (1) Each [agency] covered entity shall provide the risk manager with all reasonable  
242 information necessary to compute insurance premiums whenever [he] the risk manager  
243 requests that information [~~from them~~].

244 (2) (a) The risk manager shall charge to each [agency] entity that receives insurance  
245 coverage from the Risk Management Fund or any captive insurance company created by the  
246 risk manager its proportionate share of the cost incurred based upon actuarially sound rating  
247 techniques.

248 (b) [~~That premium~~] The risk manager shall include in the premium determined under  
249 this section all costs of operating the [~~fund~~] Risk Management Fund as stated in Section



63A-4-201 and operating any captive insurance company created by the risk manager.

(3) To enable each [~~participating agency~~] covered entity to meet its budgeting requirements, the risk manager shall provide each [~~participating agency~~] covered entity with projected insurance costs for the next two fiscal years within the time limits required.

Section 9. Section **63A-4-204** is amended to read:

**63A-4-204. School district participation in Risk Management Fund.**

(1) (a) For the purpose of this section, action by a public school district shall be taken upon resolution by a majority of the members of the school district's board of education.

(b) (i) Upon approval by the state risk manager and the board of education of the school district, a public school district may participate in the Risk Management Fund or any captive insurance company created by the risk manager, and may permit a foundation established under Section 53E-3-403 to participate in the Risk Management Fund or any captive insurance company created by the risk manager.

(ii) Upon approval by the state risk manager and the State Board of Education, a state public education foundation may participate in the Risk Management Fund or any captive insurance company created by the risk manager.

(c) Subject to any cancellation or other applicable coverage provisions, either the state risk manager or the public school district may terminate participation in the [~~fund~~] Risk Management Fund.

(2) The state risk manager shall contract for all insurance, reinsurance, legal, loss adjustment, consulting, loss control, safety, and other related services necessary to support the insurance [~~program~~] programs provided to a participating public school district, except that all supporting legal services are subject to the prior approval of the state attorney general.

~~[(3)(a) The state risk manager shall treat each participating public school district as a state agency when participating in the Risk Management Fund.]~~

~~[(b)]~~ (3) Each public school district participating in the [~~fund~~] Risk Management Fund shall comply with [~~the provisions of this part that affect state agencies~~] Section 63A-4-103.

(4) (a) Each year, the risk manager shall prepare, in writing, the information required by Subsection (4)(b) regarding the coverage against legal liability provided a school district employee of this state:

(i) by the Risk Management Fund or any captive insurance company created by the risk

281 manager;  
282 (ii) under Title 63G, Chapter 7, Governmental Immunity Act of Utah; and  
283 (iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and  
284 Employees Act.  
285 (b) (i) The information described in Subsection (4)(a) shall include:  
286 (A) the eligibility requirements, if any, to receive the coverage;  
287 (B) the basic nature of the coverage for a school district employee, including what is  
288 not covered; and  
289 (C) whether the coverage is primary or in excess of any other coverage the risk  
290 manager knows is commonly available to a school district employee in this state.  
291 (ii) The information described in Subsection (4)(a) may include:  
292 (A) comparisons the risk manager considers beneficial to a school district employee  
293 between:  
294 (I) the coverage described in Subsection (4)(a); and  
295 (II) other coverage the risk manager knows is commonly available to a school district  
296 employee in this state; and  
297 (B) any other information the risk manager considers appropriate.  
298 (c) By no later than July 1 of each year, the risk manager shall provide the information  
299 prepared under this Subsection (4) to each school district that participates in the Risk  
300 Management Fund or any captive insurance company created by the risk manager.  
301 (d) A school district that participates in the Risk Management Fund shall provide a  
302 copy of the information described in Subsection (4)(c) to each school district employee within  
303 the school district no later than the first day of each school year.  
304 (e) If a school district hires an employee after the first day of the school year, no later  
305 than 10 days after the day on which the employee is hired, the school district shall provide the  
306 information described in Subsection (4)(c) to the employee.  
307 Section 10. Section **63A-4-204.5** is amended to read:  
308 **63A-4-204.5. Charter school participation in Risk Management Fund.**  
309 (1) A charter school established under the authority of Title 53G, Chapter 5, Charter  
310 Schools, may participate in the Risk Management Fund or any captive insurance company  
311 created by the risk manager upon the approval of the state risk manager and the governing body

312 of the charter school.

313 ~~[(2)(a) For purposes of administration, the state risk manager shall treat each charter~~  
314 ~~school participating in the fund as a state agency.]~~

315 ~~[(b)]~~ (2) Each charter school participating in the [fund] Risk Management Fund shall  
316 comply with ~~[the provisions of this part that affect state agencies]~~ Section 63A-4-103.

317 (3) (a) Each year, the risk manager shall prepare, in writing, the information required  
318 by Subsection (3)(b) regarding the coverage against legal liability provided a charter school  
319 employee of this state:

320 (i) by the Risk Management Fund or any captive insurance company created by the risk  
321 manager;

322 (ii) under Title 63G, Chapter 7, Governmental Immunity Act of Utah; and

323 (iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and  
324 Employees Act.

325 (b) (i) The information described in Subsection (3)(a) shall include:

326 (A) the eligibility requirements, if any, to receive the coverage;

327 (B) the basic nature of the coverage for a charter school employee, including what is  
328 not covered; and

329 (C) whether the coverage is primary or in excess of any other coverage the risk  
330 manager knows is commonly available to a charter school employee in this state.

331 (ii) The information described in Subsection (3)(a) may include:

332 (A) comparisons the risk manager considers beneficial to a charter school employee  
333 between:

334 (I) the coverage described in Subsection (3)(a); and

335 (II) other coverage the risk manager knows is commonly available to a charter school  
336 employee in this state; and

337 (B) any other information the risk manager considers appropriate.

338 (c) By no later than July 1 of each year, the risk manager shall provide the information  
339 prepared under this Subsection (3) to each charter school that participates in the Risk  
340 Management Fund or any captive insurance company created by the risk manager.

341 (d) A charter school that participates in the Risk Management Fund or any captive  
342 insurance company created by the risk manager shall provide a copy of the information

described in Subsection (3)(c) to each charter school employee within the charter school no later than the first day of each school year.

(e) If a charter school hires an employee after the first day of the school year, no later than 10 days after the day on which the employee is hired, the charter school shall provide the information described in Subsection (3)(c) to the employee.

Section 11. Section **63A-4-205.5** is amended to read:

**63A-4-205.5. Risk management -- Coverage of the Utah Communications**

**Authority.**

The Utah Communications Authority established under authority of Title 63H, Chapter 7a, Utah Communications Authority Act, may participate in the Risk Management Fund or any captive insurance company created by the risk manager.

Section 12. Section **63A-4-208** is enacted to read:

**63A-4-208. Investment of Risk Management Fund.**

(1) The state treasurer shall invest the assets of the Risk Management Fund created under Section 63A-4-201 with the primary goal of providing for the stability, income, and growth of the principal.

(2) Nothing in this section requires a specific outcome in investing.

(3) The state treasurer may deduct any administrative costs incurred in managing fund assets from earnings before distributing the earnings.

(4) (a) The state treasurer may employ professional asset managers to assist in the investment of the assets of the funds.

(b) The treasurer may only provide compensation to asset managers from earnings generated by the funds' investments.

(5) (a) The state treasurer shall invest and manage the assets of the funds as a prudent investor would by:

(i) considering the purposes, terms, distribution requirements, and other circumstances of the funds; and

(ii) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.

(b) In determining whether the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:

(i) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and

(ii) evaluate the state treasurer's investment and management decisions respecting individual assets:

(A) not in isolation, but in the context of a fund portfolio as a whole; and

(B) as a part of an overall investment strategy that has risk and return objectives reasonably suited to the funds.

Section 13. Section **63E-1-304** is amended to read:

**63E-1-304. Limitations on risk management coverage.**

(1) Except as specifically modified in its authorizing statute, an independent entity is not eligible to receive coverage under the Risk Management Fund created by Section 63A-4-201 or any captive insurance company created by the risk manager.

(2) If an independent entity that receives coverage under the Risk Management Fund or any captive insurance company created by the risk manager is involved in a commercial activity, the state risk manager may require that the entity:

(a) procure commercial insurance coverage or provide proof of vendor's insurance coverage for the commercial activity; and

(b) comply with loss prevention measures specified by the state risk manager.

Section 14. Section **63G-7-605** is amended to read:

**63G-7-605. Adjustments to limitation of judgment amounts.**

(1) As used in this section:

(a) "Adjusted consumer price factor" means what the consumer price index would be without the medical care component and the medical services component.

(b) "Aggregate limit" means the limit on the aggregate amount of personal injury damages claims from a single occurrence, as provided in Subsection 63G-7-604(1)(d).

(c) "Applicable index" means:

(i) the consumer price index, for a calculation of the percentage change in the consumer price index;

(ii) the adjusted consumer price factor, for a calculation of the percentage change in the adjusted consumer price factor;

(iii) the medical care component, for a calculation of the percentage change in the

405 medical care component; or

406 (iv) the medical services component, for a calculation of the percentage change in the  
407 medical services component.

408 (d) "Base applicable index" means an applicable index for the year that is three years  
409 before the year in which the legislative fiscal analyst calculates new limits under this section.

410 (e) "Consumer price index" means the annual index reported by the United States  
411 Bureau of Labor Statistics for consumer prices for all urban consumers, not seasonally  
412 adjusted.

413 (f) "Individual limit" means the limit on the amount of a judgment for damages for  
414 personal injury, as provided in Subsection 63G-7-604(1)(a).

415 (g) "Latest aggregate limit" means the aggregate limit, as last adjusted by the risk  
416 manager under this section.

417 (h) "Latest individual limit" means the individual limit, as last adjusted by the risk  
418 manager under this section.

419 (i) "Latest property damage limit" means the property damage limit, as last adjusted by  
420 the risk manager under this section.

421 (j) "Medical care component" means the medical care sub-index of the consumer price  
422 index.

423 (k) "Medical services component" means the medical care services sub-index of the  
424 consumer price index.

425 (l) "Percentage change" means the amount of change between the base applicable index  
426 and the applicable index for the year before the year in which the legislative fiscal analyst  
427 calculates new limits under this section, expressed as a percentage of the base applicable index.

428 (m) "Property damage limit" means the limit on the amount of a judgment for property  
429 damage, as provided in Subsection 63G-7-604(1)(c).

430 (n) "Risk manager" means the state risk manager appointed under Section [~~63A-4-101~~]  
431 63A-4-101.5.

432 (2) Each even-numbered year, the legislative fiscal analyst shall, subject to Subsection  
433 (3):

434 (a) calculate a new individual limit by adding to the latest individual limit the sum of:

435 (i) 66.5% of the latest individual limit, multiplied by the percentage change in the

436 adjusted consumer price factor;

437 (ii) 16.75% of the latest individual limit, multiplied by the percentage change in the

438 medical care component; and

439 (iii) 16.75% of the latest individual limit, multiplied by the percentage change in the

440 medical services component;

441 (b) calculate a new aggregate limit by adding to the latest aggregate limit the sum of:

442 (i) 66.5% of the latest aggregate limit, multiplied by the percentage change in the

443 adjusted consumer price factor;

444 (ii) 16.75% of the latest aggregate limit, multiplied by the percentage change in the

445 medical care component; and

446 (iii) 16.75% of the latest aggregate limit, multiplied by the percentage change in the

447 medical services component;

448 (c) calculate a new property damage limit by adding to the latest property damage limit

449 the amount of the latest property damage limit multiplied by the percentage change in the

450 consumer price index;

451 (d) round up to the nearest \$100 the individual limit, aggregate limit, and property

452 damage limit calculated under Subsections (2)(a), (b), and (c); and

453 (e) no later than May 1, communicate the newly calculated limits under Subsections

454 (2)(a), (b), and (c) to the risk manager.

455 (3) The newly calculated individual limit, aggregate limit, or property damage limit

456 under Subsection (2) may not be less than the amount of the limit before the new calculation

457 under Subsection (2).

458 (4) (a) Each even-numbered year, the risk manager shall make rules, to become

459 effective no later than July 1 of that year, that establish a new individual limit, aggregate limit,

460 and property damage limit, as calculated under Subsection (2).

461 (b) A newly calculated individual limit, aggregate limit, or property damage limit under

462 this section has prospective effect only from the date the rules establishing the new limit take

463 effect.

464 (c) An individual limit, aggregate limit, or property damage limit, as newly calculated

465 under this section, applies only to a claim for injury or loss that occurs after the effective date

466 of the rules that establish the newly calculated limit.

Section 15. Section **63G-10-501** is amended to read:

**63G-10-501. Definitions.**

As used in this part:

(1) "Executive director" means the individual appointed under Section 63A-1-105 as the executive director of the Department of Administrative Services, created in Section 63A-1-104.

(2) "Risk management fund" means the fund created in Section 63A-4-201.

(3) "Risk manager" means the state risk manager appointed under Section ~~[63A-4-101]~~ 63A-4-101.5.

Section 16. Section **63H-6-103** is amended to read:

**63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.**

(1) There is created an independent public nonprofit corporation known as the "Utah State Fair Corporation."

(2) The board shall file articles of incorporation for the corporation with the Division of Corporations and Commercial Code.

(3) The corporation, subject to this chapter, has all powers and authority permitted nonprofit corporations by law.

(4) The corporation shall:

(a) manage, supervise, and control:

(i) all activities relating to the annual exhibition described in Subsection (4)(j); and

(ii) except as otherwise provided by statute, all state expositions, including setting the time, place, and purpose of any state exposition;

(b) for public entertainment, displays, and exhibits or similar events:

(i) provide, sponsor, or arrange the events;

(ii) publicize and promote the events; and

(iii) secure funds to cover the cost of the exhibits from:

(A) private contributions;

(B) public appropriations;

(C) admission charges; and

(D) other lawful means;

(c) acquire and designate exposition sites;



(d) use generally accepted accounting principles in accounting for the corporation's assets, liabilities, and operations;

(e) seek corporate sponsorships for the state fair park or for individual buildings or facilities within the fair park;

(f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote expositions and the use of the state fair park;

(g) develop and maintain a marketing program to promote expositions and the use of the state fair park;

(h) in accordance with provisions of this part, operate and maintain the state fair park, including the physical appearance and structural integrity of the state fair park and the buildings located at the state fair park;

(i) prepare an economic development plan for the state fair park;

(j) hold an annual exhibition that:

(i) is called the state fair or a similar name;

(ii) promotes and highlights agriculture throughout the state;

(iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah;

(iv) includes the award of premiums for the best specimens of the exhibited articles and animals;

(v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and

(vi) is arranged according to plans approved by the board;

(k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j); and

(l) publish a list of premiums that will be awarded at the annual exhibition described in Subsection (4)(j) for the best specimens of exhibited articles and animals.

(5) In addition to the annual exhibition described in Subsection (4)(j), the corporation may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural,

floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah.

(6) The corporation may:

(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;

(b) (i) participate in the state's Risk Management Fund created under Section 63A-4-201 or any captive insurance company created by the risk manager; or

(ii) procure insurance against any loss in connection with the corporation's property and other assets, including mortgage loans;

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or Utah;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the corporation, subject to the conditions, if any, upon which the aid and contributions were made;

(e) enter into management agreements with any person or entity for the performance of the corporation's functions or powers;

(f) establish whatever accounts and procedures as necessary to budget, receive, and disburse, account for, and audit all funds received, appropriated, or generated;

(g) subject to Subsection (8), lease any of the facilities at the state fair park;

(h) sponsor events as approved by the board; and

(i) enter into one or more agreements to develop the state fair park.

(7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the corporation is exempt from:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Administrative Services Code;

(iv) Title 63J, Chapter 1, Budgetary Procedures Act; and

(v) Title 67, Chapter 19, Utah State Personnel Management Act.

(b) The board shall adopt policies parallel to and consistent with:

- (i) Title 51, Chapter 5, Funds Consolidation Act;
  - (ii) Title 51, Chapter 7, State Money Management Act;
  - (iii) Title 63A, Utah Administrative Services Code; and
  - (iv) Title 63J, Chapter 1, Budgetary Procedures Act.
- (c) The corporation shall comply with:
- (i) Title 52, Chapter 4, Open and Public Meetings Act;
  - (ii) Title 63G, Chapter 2, Government Records Access and Management Act;
  - (iii) the provisions of Title 63A, Chapter 1, Part 2, Utah Public Finance Website;
  - (iv) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:
    - (A) entertainment provided at the state fair park;
    - (B) judges for competitive exhibits; or
    - (C) sponsorship of an event at the state fair park; and
  - (v) the legislative approval requirements for new facilities established in Section 63A-5b-404.

(8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a term of 10 or more years, the corporation shall:

(i) submit the proposed lease to the State Building Board for the State Building Board's approval or rejection; and

(ii) if the State Building Board approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive Appropriation Committee's review and recommendation in accordance with Subsection (8)(b).

(b) The Executive Appropriations Committee shall review a proposed lease submitted in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:

- (i) execute the proposed sublease; or
- (ii) reject the proposed sublease.